

City of Richmond

*900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.rva.gov*



Meeting Minutes

Thursday, July 6, 2023

10:00 AM

5th Floor Conference Room of City Hall

Urban Design Committee

[PDRPRES](#) Public Access and Participation Instructions - Urban Design Committee
[2023.045](#) 7-06-23

Attachments: [07_06_2023_Public_Access_and_Participation_Instructions_-_Urban_Design_Committee](#)

Call to Order

Roll Call

Present -- 9 - * Committee Member Luigi Mignardi, * Andrea Quilici, * Justin Doyle, * Eva Clarke, * Amelia Wehunt, * Jessie Gemmer, * Committee Member Charles Woodson, * Committee Member Timothy Hamnett and * Mitch Danese

Absent -- 1 - * Damon Pearson

Approval of Minutes

Secretary's Report

Planner Roakes detailed approvals from the previous Planning Commission meeting. He noted that "UDC 2023-10 FINAL Location, Character, and Extent review of the new TB Smith Community Center; 2015 Ruffin Road" And "UDC 2023-10 FINAL Location, Character, and Extent review of the new TB Smith Community Center; 2015 Ruffin Road" was revised by the Planning Commission to remove a condition recommended by the UDC regarding Bird Safe Glass. He noted this was because the City's Attorney's Office determined that was outside of the General Location, Character, Extent review of the Commission.

-Committee Member Woodson stated that he believed it to be outside of the scope of authority of Planning Staff to alter, curate, or otherwise change suggestions from the UDC to the Planning Commission. He suggested that the UDC file a request to the City Council that the issue should be cleared up and that the UDC requests both applications involving bird safe glass be sent back to the Planning Commission with the recommendations unmolested.

-Chair Quilici asked Planner Roakes to clarify the issue and steps of events related to the removal of the bird safe glass condition. He also asked Staff to clarify if the UDC's recommendation to the CPC was removed or that Staff recommended removal to the Planning Commission.

-Planner Roakes clarified that the Staff Report to the CPC included all of the recommendations from the UDC to the CPC. That Staff provided further detail communicating that the Legal Dept determined the condition was outside the scope of the CPC and UDC and that Staff recommended removal of the condition. That the CPC, taking into consideration the points made in the Staff report, decided to remove the condition rather than alter the condition.

Chair Quilici asked Planner Roakes to confirm that Staff recommended removal of the condition to the CPC and not that Staff removed the condition themselves and the CPC never saw the condition.

Planner Roakes responded that is correct, Staff did not remove the condition, only made a recommendation.

Chair Quilici stated that its important to understand what happened really, and if the actions were taken appropriately. He asked if Planning Commission voted to accept the recommendation of Staff to remove the condition.

Planner Roakes confirmed that the Planning Commission voted to accept the conditions as detailed in the Staff Report and as recommended by Staff. Which that was the UDC

recommendation communicated, with the Staff recommendation attached of removal of the Bird Safe Glass condition.

Committee Member Woodson stated that Planner Roakes responded to him in an email clarifying this topic. He stated that Planner Roakes stated in the email that the UDC can recommend bird safe glass going forward but not require it. Committee Member Woodson restated that the two Application should go back to the CPC with the conditions for bird safe glass.

Committee Member Clarke agreed that the case should go back to Planning Commission. She stated that bird safe glass makes sense in a park setting. Committee Member Woodson suggested that costs related to Bird Safe Glass is negligible.

Chair Quilici asked Planner Roakes what options the UDC had to request change to a previously approved application.

Planner Roakes stated that the UDC could send a letter to the Planning Commission suggesting that in the future the Planning Commission correct a condition rather than fully remove it. Planner Roakes suggested the UDC could vote to have Staff draft the letter and bring it back to the UDC at a later date for approval.

Committee Member Woodson stated he would like the letter to go to the City Council. Committee Member Gemmer suggested that this discussion be moved to the end of the meeting.

Chair Quilici agreed.

Consideration of Continuances and Deletions from Agenda

Committee Member Wehunt asked if it should be discussed is UDC 2023-14 APPEAL - WEST OF THE BOULEVARD DESIGN OVERLAY DISTRICT for construction of two single family dwellings located at 3412 & 3412 1/2 West Franklin Street should be continued to another meeting.

Chair Quilici stated that the Neighborhood Association, Museum District Association, requested the application to be continued so that it could review the application and provide input. He suggested that the presentation for the item could be heard at this meeting and then the UDC could determine if it needed to be continued. He recommended to hear the application and continue to the following UDC meeting.

Committee Member Woodson noted that the Community Organization had less than 2 weeks to consider the application. He also noted that part of that time was the July 4 holiday.

Chair Quilici noted that the 2 weeks was the legally required notice time.

Committee Member Gemmer stated that she would like to hear the item so she can understand better the extent of what is being asked of the UDC to decide.

Chair Quilici asked if there was a motion to continue the item.

There was no motion.

Chair Quilici stated they shall move on with the Regular Agenda.

CONSENT AGENDA

REGULAR AGENDA

[UDC 2023-13](#) UDC 2023-13 FINAL Location, Character, and Extent review of the Calhoun Community Center Park Renovation Phase 1 located at 536 Calhoun Street

Attachments: [UDC 2023-13 UDC report to CPC](#)

[UDC 2023-13 Staff Report](#)

[UDC 2023-13 App](#)

[UDC 2023-13 Narrative](#)

[UDC 2023-13 Application Packet](#)

Planner Roakes made a presentation.

Deputy Director Pechin made a presentation.

Applicant Scott Wiley – Architect from Timmons Group provided a presentation.

Vice Chair Clarke asked about the use of dwarf fountain grass in the landscaping, suggesting it could be an invasive species.

Committee Member Hamnett asked what year the existing restroom facility was created.

Deputy Director Pechin answered that it is not historically significant and not the original structure, as determined by City Historic and Section 106 Staff. She also highlighted that the current plan proposes re-using the exiting columns from that structure.

Vice Chair Clarke asked about maintenance of the splash pad

Applicant Wiley explains that the Department of Parks, Recreation, and Community Facilitates is responsible for maintenance. They maintained several across the City are committed to providing maintenance to all of them.

Ryan Rein from City PRC explained that the design of the splash pad was specifically chosen so that the parts used for the proposed location are the same as other splash pad to increase the ability of the City to properly maintain.

Committee Member Hamnett asked about the material for the hexagonal shade structure.

Applicant Wiley stated that they are considering aluminum or steel. Material choice depends on budget and design by an expert contractor. If the budget could not facilitate the proposed structure, the back up plan was to do a community build program for a temporary wooden structure that will be replaced in the future with the full structure when budget is available.

Committee Member Hamnett asked the design to consider preventing basketballs, etc from getting stuck on the roof.

Committee Member Gemmer asked for re-iteration of community priorities. She remembered seeing that storage for events was an important value.

Applicant Wiley says it would be a part of the future phase and adjacent to the splash pad.

Committee Member Gemmer asked why the location of the splash pad was chosen.

Applicant Wiley stated it could be anywhere along Calhoun Street in relation to available utilities but was chosen to keep it centrally located and with a concise footprint and discussion with the Community.

Committee Member Gemmer suggested picnic tables rather than benches as they are on the community value list. She also asked if the proposed gravel path was ADA accessible.

Applicant Wiley stated the material of the path would be accessible and the majority of the path is flat ground.

Committee Member Gemmer asked if lighting was planned for at this phase, even if it was not going to be installed until later.

Applicant Wiley stated they had considered and that most of the electric work would be at the edges of the park where electric is available.

Committee Member Gemmer asked about what biological hazard there is in relation to the splash pad.

Applicant Wiley clarified bodily fluids and stated that the Virginia State Department of Health has approved the plan and how cleanliness is addressed.

Committee Member Gemmer asked if there was a spigot or hose location near the splash pad to wash off the pad.

Applicant Wiley stated they will look at providing that.

Chair Quilici asked if there is a certain cut off time for operation of the Splash Pad.

Applicant Wiley explained that City Staff will have to be on site to start it up and stop it every day.

Committee Member Hamnett praised the Applicant for choosing a splash pad as the first phase of the project.

Ryan Rinn, DPR explained some of the process taken to choose the splash pad and other design choices in the proposed park, steps in the process to get HUD grant funding, and changes to the exiting community center adjacent to the park.

Andrea Quilici asked about a crosswalk from the neighborhood to the splash pad.

Applicant Wiley acknowledges but stated the midblock crossing is discouraged by DPW and the crosswalk is part of the next phase.

Vice Chair Clarke asked about the length of the proposed walking path.

Applicant Wiley says it is around 1,000 feet in length.

Applicant Woodson asked about a speed table or lowering the speed limit for the adjacent streets.

Councilperson Lambert thanks the Staff for their work on the project and community members who have been involved to make the plan happen. The Honorable Councilperson also highlighted that many community members have mentioned need for elements of the park to be used by younger users and outlined some of the history of the area.

-No public comment was provided-

Committee Member Gemmer motioned to approve with staff recommended conditions.

Committee Member Hamnett seconds the motion.

Vice Chair Clarke requested to add the removal of the invasive dwarf fountain grass from the plans as a condition of approval.

Committee Member Gemmer, as the primary motion, and Committee Member Hamnett, as the second, agreed.

Committee Member Doyle asked to recommend that DPW make traffic calming measures in proximity of the splash pad a priority.

Chair Quilici asks the secretary to clarify how to move forward with such a recommendation.

Councilperson Lambert clarified that there was recent traffic calming installed such as speedbumps and repaved streets.

Planner Roakes suggests that the UDC can make a recommendation as a condition.

Committee Member Gemmer asked for clarification of the depth of the landscape buffer to the splash pad.

Applicant Wiley stated it is 15 feet and includes grasses, trees and shrubs.

A motion was made by Committee Member Gemmer, seconded by Committee Member Hamnett, that this Location, Character and Extent Item be recommended for approval with conditions to the Planning Commission, due back on 7/17/2023.

The UDC recommends the following conditions:

- 1. UDC recommends that final details on outdoor lighting continue to be sensitive to light pollution or dark-skies compliant.**
- 2. UDC recommends inclusion of sustainable considerations such as stormwater retention and permeable hardscape materials where appropriate and as suggested by the Urban Design Guidelines.**
- 3. UDC recommends that the re-use of existing materials onsite should be incorporated with the design plans, where feasible.**
- 4. UDC recommends that the Applicant replace Dwarf Fountain Grass with another native species.**
- 5. UDC recommends that the Applicant work with Public Works to evaluate traffic calming in conjunction with the proposed splash pad.**

The motion carried by the following vote:

Aye -- 8 - Committee Member Luigi Mignardi, Andrea Quilici, Justin Doyle, Eva Clarke, Jessie Gemmer, Committee Member Charles Woodson, Committee Member Timothy Hamnett and Mitch Danese

Abstain -- 1 - Amelia Wehunt

[UDC 2023-14](#) UDC 2023-14 APPEAL - WEST OF THE BOULEVARD DESIGN OVERLAY DISTRICT for construction of two single family dwellings located at 3412 & 3412 1/2 West Franklin Street. (Continued from the July 08, 2023 UDC Meeting)

Attachments: [UDC 2023-14 App](#)
[UDC 2023-14 Site Plan](#)
[UDC 2023-14 Landscaping](#)
[Community Letter - Dana Mabes](#)
[Community Letter - Museum District](#)
[Community Letter - Goss](#)
[UDC 2023-14 Narrative REVISION](#)
[UDC 2023-14 Plan Set REVISION](#)
[Exhibit - Applicant Presentation \(With Renderings\)](#)
[Community Letter - Museum District NEW](#)
[West of the Boulevard Design Guidelines](#)

Planner Roakes noted that this application was what the UDC members discussed continuing earlier in the meeting. They had the option of hearing and deciding at that meeting or hearing the presentations and public input and continuing the item to the next UDC meeting. The goal of a continuation would be to allow further time to consult with the Museum District Association and neighbors.

Planner Roakes provided a presentation.

Committee Member Danese asked if the subject property as recently subdivided to be two lots.

The Applicant confirmed that it was always two lots.

Committee Member Gemmer asked for further detail on the Design Overlay Guidelines. Planner Roakes confirmed the Design Overlay Guidelines are separate from the UDC Guidelines and that the West of the Boulevard Overlay is the only one currently approved in the City. Planner Roakes also confirmed that it is Staffs job to review the Application and determine which items in the guidelines are met or not.

Chair Quilici confirms that the task for the UDC in hearing this application is solely to determine if the three exceptions to the guidelines are permissible.

Committee Member Danese asked if details on the exterior materials be provided.

Committee Members and Staff discussed fiber cement siding, architectural shingles, gutters ect.

Committee Member Gemmer asked if the proposed materials meet the requirements of the Guidelines.

Planner Roakes confirmed.

Applicant Caroline Eddy provides a presentation.

Vice Chair Clarke asks for details on dormers.

Applicant Eddy explains that there is a third floor and the windows are the same size.

Planner Roakes confirmed.

Committee Member Hamnett asked if the proposed shutters are necessary and what material.

Planner Roakes confirms that the role of the UDC on this application is to determine if the architecture is appropriate for the neighborhood in a very general sense, not individual detail.

Committee Member Woodson asks if the UDC's role on the application is location, character, and design.

The secretary clarifies that this is an appeal and does not include location, character, and extent.

Chair Quilici asked if the adjacent neighbors were contacted.

Applicant Eddy stated there was a misunderstanding internally to her staff and the adjacent property owners were shown the incorrect proposal documents.

Chair Quilici asked if the Applicant contacted the Museum District Association.

Applicant Eddy contacted the Association shortly prior to the UDC but they have not had time to review and reply.

Committee Member Gemmer asked about the non-compliant set back.

Applicant Eddy confirmed the Guidelines require 3ft side setback and clarifies the 4 feet is needed for building variation and hvac.

Chair Quilici stated that the reason the guidelines was put in place was to establish a rhythm in the building wall.

Committee Member Gemmer asks about the cornice.

Applicant Eddy explains that the proposed window height prevents the cornice from being larger.

Committee Member Mignardi asks about condenser (AC) units being relocated to the rear.

Planner Roakes confirms that the Zoning Code requires that the units be screened, but does not locational requirements.

Committee Members ask about egress.

Planner Roakes states that is a question for building review and he is not familiar enough to answer.

Committee Member Hamnett asked how many bedrooms were in the house that was demolished.

The Applicant did not.

Committee Member Hamnett stated he supported density.

Committee Member Gemmer agreed that the density should be applauded and that applying these guidelines to this area is not appropriate, but neighborhood engagement is very important.

Committee Member Woodson stated it is hard to get neighborhood guidelines approved so they owed it to the Association to hear their views and that he was not prepared to vote today. He stated that he was not prepared to vote on the application during that meeting to give time to consult with neighbors and Association. He further stated that he did not support demolishing one house to construct two more.

Planner Roakes stated that the UDC received two letters from neighbors requesting a continuance and a letter from the Association requesting a continuance. Considering the letters, Staff would support continuance as well.

Public Comment

Dana Kaplan, house on the left stated concern about community engagement and requested a continuance.

Arthur Serben, house on the right stated concern about community engagement and questioned why the application was at the UDC rather than other bodies. They explained concern with architecture, especially roof height and the third floor.

Jenny Yu, house on the right explained that the guidelines say that new construction should blend with the surroundings.

Committee Member Woodson stated that he had never seen an application regarding an

overlay district but it is the job of the UDC to evaluate and recommend on design overlay districts.

Committee Member Woodson motioned to continue the application to August.

Committee Member Danese seconds the continuance.

Committee Member Gemmer stated that there needs to be a scaled line drawing with the adjacent buildings at the next meeting.

Committee Member Danese wanted the floor height dimensions on the adjacent houses if possible.

Committee Member Gemmer agreed they should receive further information at the next hearing.

Chair Quilici asked if the proposal is compliant with the guidelines except for the 3 elements listed.

Planner Roakes confirmed.

Committee Member Danese stated that having all of the information helps him to determine if asking for one change will lead to other changes.

Committee Member Woodson stated that this is not a Old Historic district but a design overlay.

Jessie Gemmer asks if it is compliant with R-6 Zoning.

Planner Roakes clarifies it does not need a SUP, it met all zoning requirements.

Lugi Minardi asks to clarify when things come to UDC for design overlay.

Planner Roakes confirmed that building permit review for Design Overlay is completed by Staff. UDC only hears the original overlay and appeals.

Jessie Gemmer asked what part the MDA plays in deciding the appeal.

Planner Roakes clarified that this is not a qualitative review and does not go to Planning Commission. That the Association approval does not change the process laid out thus far of the UDC hearing the Appeal. He also stated that he requested the Association to provide a letter to communicate their thoughts. He also stated that the review is only an appeal, full review outside the appeal is not within the scope, and that if the appeal is denied, the outcome would be that the Applicant would have to build to the exact letter of the guidelines. It is not a qualitative review, more a yes/no review.

Committee Member Gemmer mentioned to the applicant that they could show the MDA what it would look like if it did comply with the guidelines.

Timothy Hamnett asked who takes it to Council in the event of an appeal.

Planner Roakes confirmed it would be a neighbor or the neighborhood association or similar.

A motion was made by Committee Member Woodson, seconded by Committee Member Danese, that this Design Overlay District Appeal be continued and referred back to the Urban Design Committee, due back on 8/8/2023. The motion carried by the following vote:

Aye -- 8 - Committee Member Luigi Mignardi, Andrea Quilici, Eva Clarke, Amelia Wehunt, Jessie Gemmer, Committee Member Charles Woodson, Committee Member Timothy Hamnett and Mitch Danese

Excused -- 1 - Justin Doyle

OTHER BUSINESS

Planner Roakes recaps what happened – the UDC asked the applicant to revise their plans to include bird safe glass, the city attorney's office flagged it and said that cannot be a requirement made

Committee Member Danese asks if the interaction between legal and staff is public record

Planner Roakes brings up the language to show the commission

Committee Member Woodson asks if it was staff's decision

Planner Roakes says no it was not staff's decision

Committee Member Gemmer asks

Committee Member Woodson notes that he filed a FOIA request with the city attorneys office for this correspondence that would detail their response and they say said they had none

Committee Member Danese says he finds it odd that all the things they require or recommend, legally, the Planning Commission can do whatever they want. So he wonders why there's this one thing that they say they are not legally bound to put glass there. She continues and states, "you're not legally bound to do anything." And then Planning Commission and what actually gets built-theirs nothing they can do about it before or after the fact. So it raises questions.

Committee Member asked does Legal always review any one of our (inaudible)

Committee Member Woodson says the bottom line is that the community has been harmed by the recommendation of staff that he believes they do not have the authority to make

Committee Member asked does Legal always review any one of our (inaudible)

Planner Ebinger comes up to clarify that the UDC can make recommendations not requirements.

Vice Chair Clarke asks if the city can require bird safe glass

Committee Member Danese says that is zoning

Planner Ebinger clarifies they could talk to Kevin Vonck about getting it put into the Zoning code

Committee Member Gemmer asks what inappropriate language was used to prompt the removal

Committee Member Woodson says Jessie made the request. But here's the cut and dry-the community received damages here because the staff inappropriately and without authority intervened on the recommendations...and that's not in quotation-and I urge you to go back and...We really need...Because, ladies and gentlemen-you all give so much of your expertise and time to this city and for staff to just come along...and I still done understand...and I still haven't seen the city attorneys ruling on this or who asked for that ruling. But this was a recommendation by an esteemed colleague here. It was not a requiremt. We know...we all know that we can't require this...So, did you listen to the meeting? (directing question to Planner Ebinger).

Planner Ebinger- responds to Mr. Woodson and states that he was attending the meeting. And further states, that he thinks the best course of action is to be very clear that the language is something like "consider" "including" xyz.

Committee Member Woodson says, "I recommend...I make a motion that we send a letter to city council appealing this action by planning staff and ask that we make sure it does not happen again

Planner Ebinger states that he's not clear on what the appeal will accomplish. He states, if your stating that this was a recommendation that's not binding. If the recommendation was taken off, appealing to put the recommendation back on still leaves it as a recommendation that's not binding.

Committee Member Woodson says it's not binding, but you had no right and no authority to remove that recommendation. Show me on the city charter where staff has any kind of authority to amend, to curate, to modify any recommendation-Recommendation! And that's not in quotation marks.

Planner Ebinger stated that staff clarified that the condition was not appropriate and so as a recommending body giving information or guidance to the planning commission they can choose to accept the recommendation or they can choose to follow what staffs guidance was.

Committee Member Woodson asked the Planning Commission could? But not the staff.

Planner Ebinger stated that the staff serves the Planning Commission by providing guidance based on legal instruction. The Planning Commission could choose for items

not to come to UDC at all. But it does it because it values the guidance from the UDC. Chair Quilici stated that the Planning Commission could choose not to take the recommendation of Staff that the Planning Commission took the recommendation from the staff.

Committee Member Woodson stated but they had no authority to recommend that it be taken off.

Committee Member Gemmer stated that she thought it appropriate for Staff to give further detail or advice as needed to the Planning Commission regarding communications from the UDC. She asked that was the issue the fact that the condition was a requirement rather than a recommendation?

Planner Roakes stated that he typically makes an affirmative condition when the Applicant agrees to something in person during the meeting.

Chair Quilici stated the Applicant seemed to agree.

Committee Member Woodson stated that the Applicant said they could change the glazing easily.

Committee Member Gemmer asked if Planner Roakes changes the language she provided from the original motion.

Planner Roakes stated that no language was changed.

Committee Members asked why the condition was changed.

Committee Member Woodson stated it was illegal, it was wrong.

Committee Member Gemmer stated that she believes Planner Roakes wrote the condition down as she stated in the original motion. Legal flagged something.

Planner Roakes clarified the structure of the conditions sent to planning commission.

Committee Member asked if the issue was the condition said provide instead of consider providing.

Planner Ebinger stated the City Attorney could attend a future UDC meeting to clarify how to structure conditions.

Committee Member Woodson asked if he could get a copy of the ruling from the City Attorney because he has heard two different opinions from the City Attorney. One is that the UDC cannot require, and that the UDC can recommend bird safe glass. He stated that Mr. Roakes stated in a email that the UDC can recommend bird safe glass.

Committee Members discuss that bird safe glass is not out of the realm of suggestion but requiring it is out of scope.

Committee Member Woodson stated that he believes Legal did not intervene but Staff did and asked Planner Ebinger if he took it to the City Attorney.

Planner Ebinger stated no.

Committee Member Woodson asked who took it to the City Attorney.

Planner Ebinger stated he was unsure.

Committee Member Doyle stated probably no one did and that the Attorneys were doing a standard review.

Committee Member Woodson stated someone goosed the City Attorney and that Planner Ebinger knew who.

Planner Ebinger responded that he is not going to engage in accusations and can set up a separate meeting if Committee Member Woodson would like, but that was not the proper venue for demanding information.

Vice Chair Clarke asked if they can fix the condition and put in the proper wording.

Planner Ebinger stated the Application was already approved and cannot be altered.

Committee Member Woodson asked if the application goes to City Council.

Planner Ebinger stated it goes to the Planning Commission.

Chair Quilici stated the application already went and was approved.

Committee Member Gemmer stated she wants to understand the issue to avoid in the future. Conditions saying "incorporate" is the same tense as provide and wants to understand for other conditions.

Planner Roakes clarified that Legal determined that bird safe glass is too detailed an item

to fall under general location, character, and extent review and thus the UDC and Planning Commission review. The UDC is allowed to state bird safe glass would be preferred. Specifically in the condition in question, requiring the Applicant to change plans to refer to bird safe glass was the issue in that condition. Conditions to change plans that falls under UDC preview (general location character extent) then a condition requiring change of plans would permitted.

Vice Chair Clarke stated it shouldn't change the plans to put bird safe glass.

Chair Quilici asked if Bird Safe Glass was mentioned in the guidelines and if it is then the UDC is in the right to ask for it.

Planner Roakes confirmed yes. Planner Roakes further confirmed the issue the UDC is taking is that the condition was removed rather than altered to be correct.

Chair Quilici and Committee Member Gemmer agreed.

Committee Member Gemmer asked should legal look at the guideines.

Planner Roakes stated that there were a number of items in the guidelines that were recommendations.

Planner Ebinger stated he thought having a representative from the legal department would be beneficial because the topic is very nuanced.

Woodson asks for city attorneys ruling.

Planner Ebinger stated he would need to file a request.

Committee Member Woodson stated that his next statement would show that something is going on here and said he filed a FOIA request with Department of Parks for correspondence regarding the issue and received late, that Parks has 40 documents and it would take 4 hours of Staff time and it would cost a certain amount to receive the documents. Woodson stated to Parks that he would pay it. 20 minutes later he stated that Parks got back to him and stated they did not have records. He further stated something is going on here.

Committee Member Gemmer asked what could the great bird safe glass conspiracy be.

Committee Member Woodson stated that he agreed and stated the cost was minimal.

Committee Member Danese stated it is probably just an Attorney issue.

Vice Chair Clarke asked if the Attorneys look at all of the documents and why this was flagged.

Committee Member Woodson stated that the city attorney confirmed they can recommend bird safe glass.

Committee Member Gemmer asked if the issue is that the plan was required to be changed after Planning Commission approval.

Committee Member Woodson made a motion to send a letter to Planning Commissions, City Council, and Director Vonck (PDR) that requested an appeal that the UDC recommendation without authority was removed from the Planning Commission agenda and that we need it to go back to the Plannign Commission with an unmolested roster of the UDC recommendation.

Planner Roakes stated that using the word Appeal would mean a legal procedure to appeal the decision of the Planning Commission.

Committee Member Woodson stated he just wanted to take the application back to the Planning Commission.

Planner Roakes stated that an application cannot go back to the Planning Commission that has already been approved.

Committee Member Woodson stated that the application was illegally approved.

Planner Roakes stated that it was not illegally approved.

Planner Ebinger asked the committee to look on the screen at the language of the Staff report that was sent to the Planning Commission. He stated that the report specified the condition recommended from UDC and then added a note stating the Staff recommendation. He stated that this shows the Commission as aware what the condition was and chose to remove it.

Committee Member Woodson stated that he believed Staff didn't have any right to remove

it.

Planner Ebinger stated that the Commissions removed it not Staff. The Planning Commission can remove any condition.

Committee Member Woodson stated that Staff recommended removal.

Chair Quilici believed it was legal for Staff to make a recommendation.

Committee Member Woodson said no.

Planner Roakes asked if someone has seconded Committee Member Woodson motion.

Committee Members discussed changing the wording.

Committee Member Gemmer stated that the letter should establish the issue and ask that incorrectly worded conditions be considered a recommendation only.

Committee Member Woodson stated that what ever will stop this from happening again and what will make Staff understand this is not in their authority to curate UDC recommendations. He stated that Planner Ebinger was not appointed by City Council to be there, Sir, and you are an employee of the City.

Planner Roakes advised Committee Member Gemmer to make a formal motion rather than alter the previous. He also advised Chair Quilici to say that the prior motion failed due to lack of second.

Committee member Gemmer motioned that when UDC language is not compliant by Staff or Legal that UDC be notified, and that the language be considered as a recommendation and asked for help from Staff on wording the motion.

Planner Roakes offered that the Planning Commission could alter conditions rather than remove when there is an issue with them.

Committee Member Gemmer agreed.

Committee Member Danese seconds.

Committee Member Danese asked if there is ever a time that they can require something.

Planner Roakes stated that the UDC makes a recommendation to the Planning Commission only and the Planning Commission takes action.

Planner Roakes stated the problem was not the UDC recommending to the Planning Commission but that the UDC and CPC would have required a change to the plans outside their scope.

Committee Members discuss.

Planner Roakes explains the difference between recommends and requires a change to plans is that the change of plans would need to be seen when the Application goes to building permit to makes sure the change is there.

Committee Member Woodson stated the Applicant stood right there and said they could change the glazing.

Mitchel Danese stated if they said they could do it and ended up unable to do it, what would the UDC do.

Committee Members discussed enforcement.

Committee Member Woodson stated they can talk to officials that are working to changing the city charter. Woodson said the community has been irreparably damaged by Staff's recommendation to take this off.

Chair Quilici states that the committee understand everyones point of view and they need to act on the motion before them.

Committee Member Woodson asked that the letter needs to be sent to City Council, Planning Commission, and Director of PDR.

Committee Member Gemmer asked how City Council fits into.

Committee Member Woodson stated they appointed the UDC members.

Planner Ebinger stated that the Planning Commission is the ultimate authority on Location, Character, Extent items, Council is not involved.

Vice Chair Clarke thought City Council should be made aware and the removal of the condition was a stupid thing.

Planner Roakes summarized the motion.

Committee Member Woodson requested the actual City Attorney's correspondence on

the issue be included in the motion.

Committee Member Gemmer stated she was unsure that is possible to include in the motion.

Planner Roakes stated that if Committee Member Woodson had an issue with his communications with another department, he needs to take it up with that Department or the appropriate channels.

The UDC voted to approve the motion.

Committee Member Woodson suggested that Committee Members go to the open forum at the Council Meeting and inform them that Staff had interfered with the recommendation of the UDC.

Committee Member Woodson motioned to request Staff to draft a letter for approval by the UDC at its August meeting requesting that UDC 2023-10 and UDC 2023-11 be appealed in regards to Bird Safe Glass conditions with the intent that such a letter be issued by the UDC and forwarded to the City Council, Planning Commission, and Director of Planning and Development Review (PDR).

The motion failed to receive a second and was withdrawn by Committee Member Woodson.

Committee Member Gemmer motioned to request that Staff draft a letter to be approved by the UDC at its August meeting to ask the Planning Commission to consider altering UDC recommended conditions in the future rather than fully removing them when a condition is advised by Staff to be outside of the scope of the Planning Commission and UDC with the intent that such a letter be issued by the UDC and forwarded to the City Council, Planning Commission, and Director of Planning and Development Review (PDR).

Aye -- 6 -- Committee Members Luigi Mignardi, Andrea Quilici, Eva Clarke, Jessie Gemmer, Charles Woodson, and Mitch Danese

Abstain -- 1 -- Amelia Wehunt

Excused -- 2 -- Justin Doyle, Timothy Hamnett

Adjournment